

# **The Illusion of Progress: Evaluating U.N. Women's Rights Instruments**

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## Part I: Introduction

There are two sides to every story. The last half-century has seen an unprecedented push for the global advancement of women's rights. Women's suffrage has undergone a considerable expansion, female students surpass male students in higher education on an international scale, and fifty percent of adult women are in the workforce ("The World's Women," 2015, pp. 11-12). Any degree of improvement is certainly noteworthy and necessary for future advancement, but the inverse statistics shed led on perhaps an even more harrowing problem. The fight for male suffrage, especially those of non-African descent, has not needed to exist, men are more likely than women to stay in school at any level and dominate most academic fields, and the workforce is comprised of men by more than seventy-seven percent ("The World's Women," 2015, pp. 11-12). Violence, sexual assault, and workplace discrimination against women are on the rise. Though there have been shifts in legislation to protect the sanctity of women's rights, men undoubtedly hold the power.

The United Nations, or U.N., has presented itself as the ultimate champion of

human rights since its conception. Still, the U.N. has oftentimes ignored the recognition of women's rights as human rights. Should the United Nations be responsible for changing the customs that shape patterns of gender discrimination when states have such markedly different social expectations and normalized gender roles? *The United Nations has developed relevant mechanisms to directly combat discrimination against women when violations are de jure in nature. However, in order to fully function as a necessary institution in the fight for women's rights, the U.N. must commit itself to the handling of the persistence of the de facto discrimination that underlies all inequities that women face and to the strict enforcement of created women's rights instruments.*

This paper will proceed as follows: Part II will detail the instruments created by the United Nations to combat discrimination against women. This will include the identification of a pattern in which gendered prejudices become systemic through the normalization of women's inferiority to men. The effectiveness of the aforementioned instruments throughout modern history and today will be evaluated in practice in Part III. The endurance of de facto discrimination in all de jure efforts will also be underscored.

## Part II: Theory

The Charter of the United Nations and the International Bill of Human Rights explicitly demand gender equality and women's rights protection, establishing the

U.N. Charter as the first global treaty to do so. Though the U.N.'s development of the Commission on the Status of Women in 1946 was the first specialized machinery for women's rights, it was not until 1979 that the United Nations adopted the Convention on the Elimination of All Forms of Discrimination Against Women, or CEDAW, to redefine women's rights within a global human rights perspective.

More applicably, the International Bill of Human Rights brought about the development of covenants, or international treaties, that have fixed obligations for participating states and incorporate international instruments. On the other hand, the Universal Declaration of Human Rights is less binding, as it depends on upholding moral standards and international consensus (Reanda, 1981, pp. 12-13). Therefore, states that have adopted the Universal Declaration of Human Rights do not regularly enforce standards for women's rights.

In 1962 the Commission on the Status of Women formed the Convention on the Political Rights of Women, the Convention on the Nationality of Married Women, and the Convention on the Consent to Marriage, Minimum Age for Marriage, and the Registration of Marriages (Reanda, 1981, p. 19). It is worth mentioning that these conventions lack an international scope and are restricted to women's rights violations that fall under the specific premises of each convention. During the U.N. Decade for Women, a period from 1976 to 1985 in which the United Nations put a substantial emphasis on women's

rights as human rights, the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights were amended to account for women (Haq, 2005, pp. 110-12).

In 1972 the push for the U.N. to take a more dominant focus on women's right was catalyzed upon the request of the Women's International Democratic Federation. The United Nations responded by declaring 1975 the "International Women's Year," thus commencing the U.N. Decade for Women. This Non-Governmental Organization initiative proved successful, as this decade birthed the concept of global feminism following 1985. Additionally, the U.N. Decade for Women generated the first gendered conference with the First World Conference on Women in 1975, during which 1976 was declared as the decade's start (Chen, 1995, pp. 478-79). At the U.N.'s Fourth Women's Conference in 1995 over 189 governments worldwide adopted a five-year action plan for the purpose of achieving gender equality, development, and peace, evidencing that fighting discrimination against women was indeed of global interest (Chen, 1995, pp. 490-91).

Paramount to the work of the United Nations in ensuring rights for women is its formation of the Convention on the Elimination of All Forms of Discrimination Against Women which is commonly referred to as CEDAW and its corresponding Committee in 1979. Most distinctly, the Convention on the Elimination of All Forms of Discrimination

Against Women has been labeled the international bill of rights for women. Defining gender discrimination and setting an agenda to end this discrimination in respect to de jure and de facto violations, states that are committed to the Convention hold a number of responsibilities. Through the inclusion of three pertinent dimensions in women's human rights law, CEDAW recognizes the underlying basis of de facto discrimination saying, "the Convention aims at enlarging our understanding of the concept of human rights and women's enjoyment of their fundamental rights. These forces take shape in stereotypes, customs, and norms which give rise to the multitude of legal, political, and economic constraints on the advancement of women" (Haq, 2005, p. 111).

The Committee, which gained legitimacy in 1982, is solely trusted with advising states that have adopted CEDAW and making general recommendations to verify that these states are aligning their policies with the expectations put forth in CEDAW. Reports of women's rights violations are heard by the Committee as well. Today the Committee on the Elimination of All Forms of Discrimination Against Women consists of twenty-three women's and human rights experts, all of whom are women ("Committee on the Elimination," 2009, para. 1).

### Part III: Application

The U.N.'s work in the area of women's rights law should not be undervalued, for without the input of outside

interference, states would feel no obligation to ending gender discrimination. The United Nations demonstrated an eagerness to terminate gender discrimination during the latter half of the twentieth century. Nonetheless, what the United Nations has achieved for women has reached a standstill. Now that the appropriate instruments have been created, little advancement of the mechanisms themselves has been carried out. In other words, the isolated development of a women's rights instrument does not immediately equate to its success in eliminating discrimination against women. Human rights scholar Laura Reanda explains this dichotomic issue most succinctly. She posits, "The creation of specialized machinery and procedures is necessary to ensure that the human rights codified in international instruments are interpreted and applied in such a way that women are guaranteed their full enjoyment" (Reanda, 1981, p. 12). Though gender equality is enshrined in human rights instruments, it is not enforced, thus bringing into question the larger role of the United Nations in addressing violations of the human rights of women. The contradictions that indicate the astute ability of the U.N. to take down de jure discrimination for women while failing to uncover the global de facto basis of gender discrimination leads to conclusions that cannot be ignored.

The worldwide elimination of discrimination against women is such a massive undertaking that it cannot be dependent on the accomplishments of a singular institution. The recommendations

alone that are supplied by the Commission of the Elimination of All Forms of Discrimination Against Women to states every four years are nothing more than a formality when governments have contrasting sets of priorities and cultural mores. It is one challenge to change the foundations of a single culture, but achieving this for the 187 states that have ratified CEDAW is insuperable for the United Nations.

This task becomes particularly complex when a state's societal expectations rest on the perpetuation of gender discrimination. Renowned civil rights lawyer Kathryn Balmforth remarks that the Convention on the Elimination of All Forms of Discrimination Against Women encompasses implausible requests. She asserts that "Matters covered by CEDAW go to the core of culture, family, and religious belief...The doctrinaire approach of the CEDAW Committee is nothing less than cultural colonialism which attempts to enforce a radical Western agenda. It completely ignores the rights of women, and men, to political, social, and cultural self-determination" (Bayefsky, 2000, p. 203). With this approach CEDAW is subjected to inherent contradictions. At the crux of gender equality is choice. Discrimination against women regularly deprives women of the right to choose. Workplace inequality can hinder a woman's decision to choose between her career and family, just as sexual assault or violence divests a woman of the agency over her own body. CEDAW virtually orders the

dismantling of culture, even when the culture in question depends on the suppression of women to function.

A state cannot change its culture and historical origins simply because it has ratified CEDAW if the Convention itself does not permit state choice. Moving forward, the United Nations must account for the stark differences in state structure, though this cannot be accomplished in a singular convention alone. Focusing on the international ingraining of de facto discrimination against women could compensate for this chasm. This suggests that the United Nations is not steadily effective in the de jure measures it formulates to protect the human rights of women. However, it is in the development of these de jure instruments that the United Nations overlooks the pervasiveness of de facto discrimination against women. This further connects to the doctrine of noninterference with which the United Nations aligns itself. As an exemplar, the United States is one of seven U.N. states that has signed CEDAW but has not ratified the Convention. U.S. Senators, who must ratify all treaties, have justified the delaying of ratification because they feel as though it violates the sovereignty of the United States (Wakefield, 2010, p. 22). The U.S. has taken measures toward lessening the influence of gender discrimination without the ratification of CEDAW, showing that CEDAW is not the be all and end all to working against women's rights violations.

Women's rights have continued to be excluded from evaluation in the Covenant

on Civil and Political Rights and the Covenant on Economic, Social, and Cultural Rights. These covenants allow states to make reports of human rights violations, but the quantity and quality of said reporting has proven to be counterintuitive. Furthermore, women's rights are not given much attention by these two covenants, as violations against women's rights tend to be de facto in nature (Reanda, 1981, pp. 14-17). The tendency for the United Nations to stress de jure discrimination over de facto discrimination may underscore its ineffectiveness in handling women's rights. Because of the entrenchment of discrimination against women worldwide, de jure evaluations have their limits.

Directly comparing the Commission on Human Rights and the Commission on the Status of Women sheds light on just how significant the discrepancy is between how the U.N. handles human rights versus women's rights. In theory, the Commission on Human Rights is responsible for the human rights of women as a marginalized societal group. The Commission on the Status of Women was formed with the intention of placing increased focus on women's rights as human rights separately from the larger Commission on Human Rights. The Commission on the Status of Women does not wield comparable power to the Commission on Human Rights, since it faces setbacks in arguing that women's rights are human rights and cannot independently investigate violations (Reanda, 1981, pp. 23-25). As the United Nations has adjusted its focus away from

political and human rights issues and toward economic and social issues, women's rights violations are frequently excluded from central agendas.

The Convention on the Elimination of All Forms of Discrimination Against Women suffers from the same frailty; instruments set up by the United Nations are virtuous in theory but not in practice. The CEDAW Committee underperforms when addressing self-reported violations of women's rights. As of January 1, 2000, the CEDAW Committee had 200 overdue reports, meaning that seventy percent of states that had adopted CEDAW by that time period had overdue reports. Backlogged by two years, it would take the Committee approximately five years to remedy all reports, both backlogged and newly submitted (Bayefsky, 2000, p. 199). The CEDAW Committee is more of a symbol of female empowerment than a proactive body. The Committee's existence unquestionably gives states a stake in reporting violations, compelling states to be increasingly wary of women's rights violations and to be held accountable.

Greater instrument enforcement on behalf of the United Nations could contribute to the reexamining of social attitudes. The United Nations is diligent when it comes to producing tangible, legitimate policy that is turned into law. Global victories for women can be partially attributed to the work of the United Nations. To illustrate, the U.N. can be commended for heightening attention to women infected with HIV/AIDS through the U.N.'s

Commission on the Status of Women. Conversely, any progress in respect to women's health is constrained by state norms. In the developing world "Married women have been at higher risk of contracting HIV from their husbands because they follow the teachings of the church and are not willing to compromise their beliefs" (Makina, 2006, p. 96).

discrimination is cast aside and women's rights mechanisms are not enforced.

#### Part IV: Conclusion

As women across the globe confront gender discrimination, the United Nations must forge itself as a steady ally. The U.N. has overcome the setbacks that come with women's rights instrument creation and now has the massive task of enforcing these instruments for the states that have adopted them. With the plethora of international instruments the United Nations has developed for the definitive purpose of promoting women's rights as human rights, there are minimal measures in tact that guarantee that all women can enjoy these rights. This partially stems from how widely states differ in their norms and structures. Further research could explore the redefining of institutional responsibilities and capabilities. The presence of an outside institution in women's rights law is nevertheless beneficial to holding states accountable as demonstrated by the CEDAW Commission. Scholars have wittingly identified a pattern in which the U.N. targets de jure discrimination instead of the underlying de facto discrimination from which it is born. Because of this, the language set forth by the U.N. can only do so much for women if de facto

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